

EXECUTIVE REPORTS OF
COMMITTEES

The following executive reports of committees were submitted:

By Mr. LUGAR, from the Committee on Agriculture, Nutrition, and Forestry:

Sally Thompson, of Kansas, to be Chief Financial Officer, Department of Agriculture.

Joseph B. Dial, of Texas, to be Commissioner of the Commodity Futures Trading Commission for the term expiring June 19, 2001. (Reappointment)

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND
JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. GRASSLEY (for himself and Mr. DURBIN):

S. 1352. A bill to amend Rule 30 of the Federal Rules of Civil Procedure to restore the stenographic preference for depositions; to the Committee on the Judiciary.

By Mr. FRIST (for himself, Mr. LOTT, and Mr. THOMPSON):

S. 1353. A bill to amend title 49, United States Code, to provide assistance and slots with respect to air carrier service between high density airports and airports that do not receive sufficient air service, to improve jet aircraft service to underserved markets, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. MCCAIN (for himself, Mr. CAMPBELL, Mr. INOUE, Mr. DASCHLE, and Mr. DORGAN):

S. 1354. A bill to amend the Communications Act of 1934 to provide for the designation of common carriers not subject to the jurisdiction of a State commission as eligible telecommunications carriers; to the Committee on Commerce, Science, and Transportation.

By Mr. LIEBERMAN (for himself and Mr. DODD):

S. 1355. A bill to designate the United States courthouse located in New Haven, Connecticut, as the "Richard C. Lee United States Courthouse"; to the Committee on Environment and Public Works.

By Mr. FAIRCLOTH:

S. 1356. A bill to amend the Communications Act of 1934 to prohibit Internet service providers from providing accounts to sexually violent predators; to the Committee on Commerce, Science, and Transportation.

By Mr. DORGAN:

S. 1357. A bill to require the States to bear the responsibility for the consequences of releasing violent criminals from custody before the expiration of the full term of imprisonment to which they are sentenced; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND
SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. D'AMATO:

S. Con. Res. 59. A concurrent resolution expressing the sense of Congress with respect

to the human rights situation in the Republic of Turkey in light of that country's desire to host the next summit meeting of the heads of state or government of the Organization for Security and Cooperation in Europe (OSCE); to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED
BILLS AND JOINT RESOLUTIONS

By Mr. GRASSLEY (for himself and Mr. DURBIN):

S. 1352. A bill to amend rule 30 of the Federal Rules of Civil Procedure to restore the stenographic preference for depositions; to the Committee on the Judiciary.

THE FEDERAL RULES OF CIVIL PROCEDURE RULE
30 AMENDMENT ACT OF 1997

Mr. GRASSLEY. Mr. President, I rise today to introduce a bill to amend rule 30 of the Federal Rules of Civil Procedure. This bill, which I am introducing with Senator DURBIN, will restore the stenographic preference for depositions taken in Federal Court. Under our system of government, Congress has the duty and responsibility to scrutinize carefully all of the rules of Civil Procedure promulgated by the Judicial Conference and transmitted to us by the Supreme Court for review—and to make modifications or deletions when appropriate. Indeed, when many changes to the rules were proposed in 1993, some were to be modified in legislation which was passed by the House. Unfortunately, the crush of the end-of-session legislation that year made it impossible for the Senate to act on this bill to modify these changes and they took effect in December of that year.

Many of us in this body wanted to bring the bill forward, but opponents of the proposed modifications were able to delay any Senate consideration until after the effective date required by the Rules Enabling Act. Because of our responsibility to review these rules, I want to bring one of the modifications back before the Senate. This modification concerns rule 30 of the Federal Rules of Civil Procedure.

From 1970 to December 1993, rule 30 permitted depositions to be recorded by non stenographic means, but only upon court order or with the written stipulation of the parties. The change in rule 30(b) altered that procedure by eliminating the requirement of a court order or stipulation and affording each party the right to arrange for recording of a deposition by non stenographic means.

Testimony at hearings conducted by the Judiciary Subcommittee on Courts and Administrative Practice in the 103d Congress raised concerns about the reliability and durability of video or audio tape alternatives to stenographic depositions. There was also information submitted suggesting that technological improvements in stenographic recording will make the stenographic method more cost-effective for years to come.

Depositions recorded stenographically have historically provided an ac-

curate record of testimony which can conveniently be used by both trial and appellate courts. In addition, the certification of accuracy by an independent and unbiased third party is a significant component of trustworthy depositions. Studies undertaken by the Justice Research Institute confirm the fact that a stenographic court reporter is the qualitative standard for accuracy and clarity in depositions, and a court reporter using a computer-aided transportation is the least costly method of making a deposition record.

Even now, 5 years after the rule change, court reporters associations contend that mechanical recording frequently produces unintelligible passages and is laden with other dangers such as the inability to identify speakers. Rather than becoming the way of the future, electronic recording has been faulted by judges and attorneys as an error-prone system where tapes are often untranscribable because of inaudible portions, machines frequently fail, and recorders pick up every background sound, including papers rustling, coughing, and attorney sidebar conferences which then must be edited out before use by jurors or for the appeal process.

The case was never made for unilateral decisions on the use of nonstenographic recording of depositions. The legislation that I am introducing today with my colleague from Illinois, Senator DURBIN, would restore the rule that nonstenographic recording of depositions is authorized only when permitted by court order or stipulation of both parties.

This version of the rule worked very effectively for over 23 years. In fact, I am not aware of any instance where an attorney or party was denied the ability to use an alternative method when it was requested. However, the most important factor was that the prior incarnation of the Rules recognized the potential for errors from methods other than stenographic means and thus established the safeguards of stipulation or court order. In fact, the notes to accompany the 1970 version of the Civil Rules said it best:

In order to facilitate less expensive procedures, provision is made for the recording of testimony by other than stenographic means—e.g., by mechanical, electronic, or photographic means. Because these methods give rise to problems of accuracy and trustworthiness, the party taking the deposition is required to apply for a court order. The order is to specify how the testimony is to be recorded, preserved, and filed, and it may contain whatever additional safeguards the court deems necessary.

(Notes to accompany the 1970 Revisions to the Federal Rules of Civil Procedure)

Mr. President, this legislation gives us the chance to do what we should have done 4 years ago and restore the rule in order to maintain the high standard of justice for which our legal system is known.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.